

REMARKS

The present Amendment is in response to the Office Action mailed October 13, 2004. Claims 37-47 and 54-62 are canceled, claims 1, 8, 12, 23-24, 48 and 51 are amended, and new claims 63 and 64 are added. Claims 7 and 9 were cancelled in a previous paper. Claims 1-6, 8, and 10-36, 48-53 and 63-64 are now pending in view of the aforementioned cancellations and new claims.

Reconsideration of the application is respectfully requested in view of the foregoing amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the claim amendments and arguments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such claim amendments and arguments should not be construed as an acquiescence, on the part of the Applicant, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited references advanced by the Examiner. Accordingly, Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time, should it arise.

Applicant respectfully notes further that the following discussion of specific claim rejections should not be construed to constitute an exhaustive enumeration of the distinctions between the claims of the present application and the references cited by the Examiner. Instead, such distinctions are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner.

II. Claim Rejections Under 35 U.S.C. § 102(b)

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently

described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. See Manual of Patent Examining Procedure (“M.P.E.P.”) § 2131.

Turning now to the rejections, the Examiner has rejected claims 1-4, 6, 11, 12, 22-24, 31, 32, 37, 38, 40, 41, 43, 48, 49, 51, 52, 54, 55 and 59-62 under 35 U.S.C. § 102(e)¹ as being anticipated by *Li, et al* (United States Patent No. 6,493,140 B1). Applicant disagrees with the position of the Examiner and respectfully submits that, for at least the reasons outlined below, the rejection should be withdrawn.

a. Claims 1-6, 8 and 10-36

As amended herein, claim 1 requires, among other things, “a core section that includes: a beam splitter/combiner . . . and an isolator optically coupled to the beam splitter/combiner, the isolator and beam splitter/combiner being disposed adjacent to each other” (emphasis added). Support for this amendment can be found, for example, at Figure 1 of the application. As discussed below, *Li* fails to teach or suggest, at least, the recited elements arranged as required by claim 1.

For example, the Examiner has asserted that *Li* teaches “an isolator optically coupled to the beam splitter/combiner,” but has not identified which component(s) of *Li* are purported to comprise the “isolator.” Thus, the Examiner has failed to establish that *Li* teaches an isolator as required by the claims. Nonetheless, Applicant respectfully notes to the Examiner that *Li* does refer to an isolator, although to a very limited extent, stating “Optics 258 [Fig. 6] can include a filter, an isolator core or any active or passive optical device required by device 230 for performing its functions” (col. 7, lines 8-11). Notwithstanding this disclosure, it is clear that *Li* fails to teach or suggest the particular arrangement recited in claim 1. In particular, and as indicated in Figure 6 of *Li*, the “optics 258” are disposed adjacent to a “birefringent element 248” and a “lens 250,” but are not located adjacent to the “beam splitter combiner 232” (see, e.g., col. 6, lines 45-48), as amended claim 1 requires.

As the foregoing suggests, *Li* has defined the “beam splitter/combiner” in a way that differs significantly from the characterization advanced by the Examiner. Specifically, as the

¹ Because *Li, et al.* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *Li, et al.* is in fact prior art to the claimed invention but reserve the right to swear behind *Li, et al.* if necessary to remove it as a reference.

Examiner has characterized *Li*, the birefringent crystal 238 (col. 6, line 47) comprises a “beam splitter/combiner.” Nonetheless, the characterization advanced by the Examiner is likewise an inadequate basis for a demonstration that claim 1 and its corresponding dependent claims are anticipated by *Li*. In particular, it is clear from Figure 6 of *Li* that the “optics 258,” characterized by *Li* as possibly including an “isolator core,” are not located adjacent to the “beam splitter/combiner” 238.

Thus, regardless of how *Li* is characterized, it is clear from the foregoing discussion that *Li* simply does not teach or suggest the claim 1 limitation concerning “a core section that includes: a beam splitter/combiner . . . and an isolator optically coupled to the beam splitter/combiner, the isolator and beam splitter/combiner being disposed adjacent to each other.”

For at least the foregoing reasons, Applicant respectfully submits that the rejection of independent claim 1, as well as the rejection of corresponding dependent claims 2-6, 8 and 10-36, has been overcome and should accordingly be withdrawn.

b. Claims 37-47 and 54-62

As claims 37-47 and 54-62 are canceled in this paper, Applicant submits that the rejection of those claims is thus rendered moot and should accordingly be withdrawn.

c. Claims 48-53

As amended herein, claims 48-53 each recite, among other things, one or more fiber couplings, each of which is “configured to hold a . . . lens and [one or more] fibers in a predetermined arrangement with respect to each other.” Support for this amendment can be found, for example, at Figure 1 of the application. In contrast, the “first fiber coupling” 240 purported by the Examiner to be disclosed in *Li* holds neither a lens nor a fiber. In fact, *Li* indicates that the element number 240 in Figure 6 is actually a GRIN lens (col. 6, line 48), not a fiber coupling. Moreover, while *Li* purports to disclose a “first sleeve 234” (Figure 6) that holds a fiber 236, it is clear from Figure 6 of *Li* that the “first sleeve 234” does not hold a lens in a predetermined arrangement with respect to the fiber 236.

For at least the foregoing reasons, Applicant respectfully submits that the rejection of claims 37-42 has been overcome and should accordingly be withdrawn.

III. Claim Rejections Under 35 U.S.C. § 103(a)

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2143.

a. Claims 5, 25-30 and 33-36

Turning now to the rejections, the Examiner has rejected claims 5, 25-30 and 33-36 under 35 U.S.C. § 103(a) as being unpatentable over *Li*. Applicant disagrees with the position of the Examiner and respectfully submits that, for at least the reasons outlined below, the rejection of those claims should be withdrawn.

By virtue of their dependency from claim 1, claims 5, 25-30 and 33-36 each require, among other things, “a core section that includes: a beam splitter/combiner . . . and an isolator optically coupled to the beam splitter/combiner, the isolator and beam splitter/combiner being disposed adjacent to each other.” As discussed above, this limitation is neither taught nor suggested by *Li*. Moreover, the Examiner has not established that the other cited references render the claimed combination obvious.

Because the Examiner has not established that the cited references teach or suggest all the claim limitations, the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 5, 25-30 and 33-36. Applicant thus respectfully submits that the rejection of those claims has been overcome and should accordingly be withdrawn.

b. Claims 5, 25-30 and 33-36

The Examiner has also rejected claims 13-21, 39, 42, 44-47, 50, 53 and 56-58 under 35 U.S.C. § 103(a) as being unpatentable over *Li* in view of U.S. 6,515,741 to Basting et al. (“*Basting*”). Applicant notes that as claims 39, 42, 44-47 and 56-68 are canceled by this paper, the rejection of those claims is thus rendered moot and should accordingly be withdrawn. As to the remaining claims 13-21, 50 and 53, Applicant disagrees with the position of the Examiner

and respectfully submits that, for at least the reasons outlined below, the rejection of those claims should be withdrawn.

Regarding claims 13-21, Applicant respectfully directs the attention of the Examiner to the preceding discussion in III.a. above as that discussion is germane to the rejection based upon *Li* and *Basting*.

By virtue of its dependency from claim 48, claim 50 requires, among other things, one or more fiber couplings, each of which is “configured to hold a . . . lens and [one or more] fibers in a predetermined arrangement with respect to each other.” As discussed above, this limitation is neither taught nor suggested by *Li*. Moreover, the Examiner has not established that *Basting* or any other cited reference supplies the aforementioned limitation. Because the Examiner has not established that the cited references teach or suggest all the claim limitations, the Examiner has failed to establish a prima facie case of obviousness with respect to claim 50. Applicant thus respectfully submits that the rejection of claim 50 has been overcome and should accordingly be withdrawn.

Similarly, claim 53 requires, among other things, one or more fiber couplings, each of which is “configured to hold a . . . lens and [one or more] fibers in a predetermined arrangement with respect to each other,” by virtue of its dependence from claim 51. As discussed earlier herein, this limitation is neither taught nor suggested by *Li*. Moreover, the Examiner has not established that *Basting* or any other cited reference (including U.S. 6,222,627 to Seitz et al.) supplies the aforementioned limitation. Because the Examiner has not established that the cited references teach or suggest all the claim limitations, the Examiner has failed to establish a prima facie case of obviousness with respect to claim 53. Applicant thus respectfully submits that the rejection of claim 53 has been overcome and should accordingly be withdrawn.

c. Claims 8 and 10

Applicant notes that the preceding discussion concerning the purported obviousness of claims 5, 25-30 and 33-36 is germane to claims 8 and 10 as well, since claims 8 and 10 similarly require, among other things, “a core section that includes: a beam splitter/combiner . . . and an isolator optically coupled to the beam splitter/combiner, the isolator and beam splitter/combiner being disposed adjacent to each other.” Accordingly, the attention of the Examiner is respectfully directed to such discussion.

In light of the foregoing, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 8-10, and the rejection of claims 8-10 should accordingly be withdrawn.

IV. New Claims 63 and 64

Applicant respectfully submits that, consistent with the discussion presented herein, new claims 63-64, each of which is directed to a method that includes “polarizing and rotating the collimated or focused beam of light” and “splitting the polarized and rotated light into a plurality of components” processes to be performed between a pair of collimating and/or focusing processes, are patentably distinct from the methods purported by the Examiner to be disclosed in the references that the Examiner has cited.

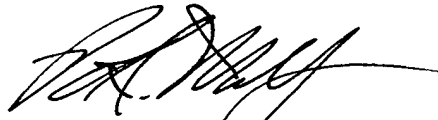
In this connection, Applicant respectfully notes that reference to the aforementioned exemplary limitations are not intended, nor should it be construed, to be either an admission or assertion by the Applicant that patentability of Applicant’s new claims, or any other claims, hinges on the presence of such limitations. Rather, Applicant submits that each of the now pending claims, considered in its respective entirety, patentably distinguishes over the references cited by the Examiner.

CONCLUSION

In view of the remarks and amendments submitted herein, Applicant respectfully submits that each of the pending claims 1-6, 8, and 10-36, 48-53 and 63-64 are in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 10th day of March, 2005.

Respectfully submitted,



PETER F. MALEN JR.
Registration No. 45,576
Attorney for Applicants
Customer No. 022913
Telephone: (801) 533-9800

W:\15436\249.25.1\TAT0000000565V001.doc